

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,

Plaintiff,

V.

AMAZON.COM, INC.,

Defendant.

Case No. 2:14-cv-01038-JCC

**DECLARATION OF JASON M.
ADLER IN SUPPORT OF MOTION
TO UNSEAL**

I, Jason M. Adler, declare as follows:

1. I am an attorney employed by the Federal Trade Commission (“FTC”) and counsel of record for the Plaintiff FTC in this matter. I submit this declaration in support of the FTC’s Motion to Unseal.

2. Amazon designated as confidential the vast majority of the documents it produced to the FTC and much of the deposition testimony. The protective order specifically prohibits “[m]ass, indiscriminate, or routinized designations[.]” (Dkt. 16 at 5.1.)

3. On April 27, 2016, counsel for Amazon sent an e-mail to FTC counsel regarding the Court's publicly released redacted version of the summary judgment order. Amazon counsel stated that it had come to their attention that the order "can be cut and pasted to reveal the language the Court intended to redact." Amazon counsel further stated, "We have little hope of retrieving the versions already circulating among the media . . ." Attached hereto as Exhibit A is a true and correct copy of that email.

4. On April 29, 2016, I sent an email to Amazon counsel regarding the FTC's intent to move to unseal the summary judgment record and invited a call to discuss. In that email, I

DECLARATION OF JASON M. ADLER
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231

1 requested that Amazon identify any portions of the record that Amazon agrees can be unsealed in
2 order to narrow the issues in front of the Court. In response, Amazon did not identify any
3 portions of the record that it agreed could be unsealed. Attached hereto as Exhibit B is a true and
4 correct copy of the email exchange.

5 5. On May 2, 2016, I sent an e-mail to Amazon counsel reiterating the FTC's intent
6 to file a motion to unseal the record, and specifically requested that Amazon provide any
7 "specific bases for the proposed redactions Amazon filed on 4/28/16" to the Court's order on
8 summary judgment. In response, Amazon did not identify any basis for the proposed redactions
9 Amazon filed on April 28, 2016. Attached hereto as Exhibit B is a true and correct copy of the
10 email exchange.

11 6. On May 3, 2016, I again e-mailed Amazon's counsel regarding unsealing the
12 record, and again requested that Amazon identify any specific bases for its proposed redactions
13 to the Court's order. To date, Amazon has not responded to that e-mail. Attached hereto as
14 Exhibit B is a true and correct copy of the email exchange.

15 7. As of the date of this filing, Amazon has not identified to FTC counsel any
16 specific bases for the proposed redactions Amazon filed on April 28, 2016 to the Court's order
17 on summary judgment, and Amazon has not identified to FTC counsel any portions of the record
18 that Amazon agrees can be unsealed.

19
20 I declare under penalty of perjury that the foregoing is true and correct.

21 Executed this 5th day of May 2016.

22
23 *s/ Jason M. Adler*
24 JASON M. ADLER
25
26

DECLARATION OF JASON M. ADLER
Case No. 2:14-cv-01038-JCC

Federal Trade Commission
600 Pennsylvania Avenue N.W.
Washington, DC 20580
(202) 326-3231